

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action Number: 05-30177-KPN

THERESA COFSKE,)
Plaintiff)
)
v.)
)
TOWN OF WARE CONSERVATION)
COMMISSION, JOEL HARDER,)
TRAVIS NICOSON, ROGER BOUCHARD, and)
JOHN MOTYKA,)
Defendants)

VERIFIED COMPLAINT
WITH JURY TRIAL DEMANDED

INTRODUCTION

1. This suit represents claims for a series of wrongful employment actions, including harassment, termination, retaliation and constructive termination, that were taken against the Plaintiff by the Town of Ware Conservation Commission and certain members of that commission named as defendants in this complaint

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. Section 1983. Plaintiff further invokes the pendent jurisdiction of this Court to hear and decide claims arising under state law.

PARTIES

3. The Plaintiff, Theresa Cofske, is a natural person who resides within Worcester County at 29 East Main Street, Gilbertville, Massachusetts;

4. The Defendant, Town of Ware Conservation Commission, is a governmental body duly organized under the By-Laws of the Town of Ware and charged under regulations/statutes promulgated by the Department of Environmental Protection (DEP) with a business address within Hampshire County at the Ware Town Hall, 126 Main Street, Ware, MA 01082;

5. The Defendant, Joel Harder, is a natural person who resides within Hampshire County at 2 Susan Drive, Ware, Massachusetts. This action is brought against Mr. Harder in both his individual capacity and his capacity as representative of the Town of Ware Conservation Commission;

6. The Defendant, Travis Nicoson, is a natural person with a business address within Hampshire County at the Ware Town Hall, 126 Main Street, Ware, MA 01082. This action is brought against Mr. Nicoson in both his individual capacity and his capacity as representative of the Town of Ware Conservation Commission;

7. The Defendant, Roger Bouchard, is a natural person with a business address within Hampshire County at the Ware Town Hall, 126 Main Street, Ware, MA 01082. This action is brought against Mr. Bouchard in his capacity as representative of the Town of Ware Conservation Commission;

8. The Defendant, John Motyka, is a natural person with a business address within Hampshire County at the Ware Town Hall, 126 Main Street, Ware, MA 01082. This action is brought against Mr. Motyka in his capacity as representative of the Town of Ware Conservation Commission;

FACTUAL ALLEGATIONS

9. On or about February 28, 2001 the Plaintiff Theresa Cofske (hereinafter, "Plaintiff") was hired as administrator/agent for the Defendant Town of Ware's Conservation Commission (hereinafter, the "Commission");

10. Among the members on the Commission are the Defendants, Joel Harder (hereinafter, "Defendant Harder"), the Defendant, Travis Nicoson (hereinafter, "Defendant Nicoson"), the Defendant, Roger Bouchard (hereinafter, "Defendant Bouchard"), and the Defendant, John Motyka (hereinafter, "John Motyka");

11. During the course of Plaintiff's employment Plaintiff perceived that the Defendants had more interest in assuring development than in following the laws and/or environmental regulations of the DEP and the Commission.

12. During the course of Plaintiff's employment Plaintiff engaged in activities that were required under law, required under governmental regulations, required by DEP regulations, or allowed under law, governmental regulations and/or DEP regulations. This protected activity included expressing concern that certain actions of the Defendants were not appropriate and were not consistent with the goals of the Conservation Commission;

13. During the course of Plaintiff's employment Plaintiff made reports that were required under law, required under governmental regulations, required by DEP regulations, or allowed under law, regulations and/or DEP regulations.

14. During the course of Plaintiff's employment Plaintiff was instructed to engage in activities that are illegal or disfavored under law, illegal or disfavored under governmental regulations and/or DEP regulations.

15. During the course of Plaintiff's employment Plaintiff refused to engage in activities that are illegal or disfavored under law, illegal or disfavored under governmental regulations and/or DEP regulations.

16. The Plaintiff refused to engage in activities, including but not limited to: not filing required reports with agencies, hiding public information, altering Commission minutes by adding false statements to Commission minutes, ignoring violations of law or regulation.

17. In retaliation for the Plaintiff's actions as described above, the Defendants, joint and severally, conspired and retaliated against the Plaintiff in an effort to deprive the Plaintiff of her position as administrator/agent of the Commission.

18. The Defendant, Harder published to third parties vile, malicious, and false accusations including but not limited to: On February 13, 2002, Defendant Joel Harder called the Plaintiff a "liar" during the course of a Commission hearing while the public was still present;

19. On or about August 14, 2002, the Plaintiff's employment is terminated in violation of Massachusetts Open Meeting laws;

20. On or about August 20, 2002, the Plaintiff wrote a letter of complaint to Assistant District Attorney, Cynthia M. Pepyne of the office of the Northwestern District Attorney detailing her termination in violation of the Open Meeting law;

21. After investigation, on or about September 4, 2002 the District Attorney's office filed a Complaint in Hampshire Superior Court against the Ware Conservation Commission requesting that the Court issue an order to the Commission to reinstate the Plaintiff;

22. Following a meeting of the Town of Ware Planning Board on or about September 10, 2002, Defendant Harder was overheard to say, "looks like the bitch is coming back," in reference

to the Plaintiff's possible reinstatement. On or about September 13, 2002, Defendant Harder was heard as stating, "I don't care if we [Commission] are required to reinstate her [Plaintiff], we'll fire her over and over again until we get it right."

23. On or about September 17, 2002, the Commission voted to reinstate the employment of the Plaintiff effective September 16, 2002, however, the Commission does not provide the Plaintiff with back pay or lost wages.

24. On November 2, 2002, the Plaintiff sent a letter of presentment pursuant to M.G.L. c. 258 §1 et seq. to the Town of Ware asserting various statutory and tort claims;

25. Due to severe depression and anxiety caused by her termination and the events surrounding her termination, the Plaintiff was unable to return to work until November 13, 2002.

26. Upon her return to work the Plaintiff was confronted with a deliberate, systemic campaign to punish her for complying with the law and/or regulations, for asserting her rights and for filing a complaint with the District Attorney's office.

27. Subsequently, all job security was taken away from the Plaintiff with the Commission's efforts to eliminate the Plaintiff's position by folding the Plaintiff's duties into the Building Department's Secretary position.

28. On or about November 27, 2002, Defendant Harder made a motion to enter into Executive Session for the purposes of disciplining the Plaintiff based upon false accusations.

29. Between November 13, 2002 and March 23, 2003, the Plaintiff was faced with open hostility from the Defendants and was falsely accused of reporting Defendant Harder to the Board of Ethics.

30. Between November 13, 2002 and March 23, 2003, the Commission and Defendants

attempted to intimidate the Plaintiff into dropping her potential lawsuit and the claims raised in her letter of presentment;

31. Subsequently, the Commission and Defendants attempt to intimidate the Plaintiff to stop helping Martha Klassanos, (former Commission Chair) who was voted off the Commission on September 17, 2003, and who was pursuing a Complaint at the Massachusetts Commission Against Discrimination (MCAD) filed on November 1, 2002 against the Town of Ware accusing the Conservation Commission of Sexual Discrimination.

32. Subsequently, the Plaintiff was told by the Defendant Harder that if she wanted to be considered for the full-time Building Department Secretary's position she should stop helping Martha Klassanos and drop her potential lawsuit.

33. The Plaintiff eventually interviewed for the position of Building Department Secretary but was treated differently than other applicants and asked different questions than other applicants. The entire interview process was a sham.

34. After months of constant criticism, open hostility, stress and anxiety the Plaintiff submitted a lengthy resignation on May 26, 2003.

COUNT I
TERMINATION (AUGUST 14, 2002) IN VIOLATION OF PUBLIC POLICY

35. The Plaintiff hereby repeats and realleges the allegations contained in paragraphs 1 through 34 of this complaint and incorporates the same herein by reference;

36. As a result of the Defendants' wrongful and malicious actions and in violation of public policy -- the Plaintiff having engaged in legal activities and the Plaintiff refusing to engage in illegal activity -- the Plaintiff's employment was terminated in violation of public policy on August

14, 2002;

37. As a result of these intentional, wilful, knowing, malicious and purposeful violations the Plaintiff suffered the loss of her employment, loss of wages and benefits, suffered great strain, hardship, emotional distress and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT II
CONSTRUCTIVE TERMINATION (MAY 26, 2003) IN VIOLATION OF PUBLIC POLICY

38. The Plaintiff hereby repeats and realleges the allegations contained in paragraphs 1 through 37 of this complaint and incorporates the same herein by reference;

39. As a result of the Defendants' wrongful and malicious actions the Plaintiff's employment was constructively terminated in violation of public policy -- the Plaintiff having engaged in legal activities and the Plaintiff refusing to engage in illegal activity and the retaliation for having so engaged -- on May 26, 2003;

40. As a result of these intentional, wilful, knowing, malicious and purposeful violations the Plaintiff suffered the loss of her employment, loss of wages and benefits, suffered great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT III
VIOLATION OF 42 U.S.C. §1983 - WRONGFUL TERMINATION AND HARASSMENT BASED UPON PLAINTIFF'S EXERCISE OF FREE EXPRESSION

41. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 40 of this complaint and incorporates the same herein by reference;

42. As a result of the Defendants' actions under color of law, the Plaintiff's civil rights to

exercise free expression were interfered with and the Plaintiff was deprived of her rights to employment because of her exercise of free expression;

43. As a result of these intentional, wilful, knowing, malicious and purposeful violations of the Plaintiff civil rights under 42 U.S.C. §1983 the Plaintiff suffered the deprivation of her rights and job and was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT IV
VIOLATION OF 42 U.S.C. §1983 - RETALIATION IN VIOLATION OF RIGHT TO
SEEK REDRESS FOR WRONGFUL TERMINATION IN COURTS

44. The Plaintiff hereby repeats and realleges the allegations contained in paragraph 1 through paragraph 43 of this complaint and incorporates the same herein by reference;

45. As a result of the Defendants' actions under color of law, the Plaintiff's civil rights were interfered with, attempted to be interfered with, and that interference or attempted interference was by threats, intimidation or coercion;

46. As a result of these intentional, wilful, knowing, malicious and purposeful violations of the Plaintiff civil rights under 42 U.S.C. §1983, specifically the illegal retaliation against the Plaintiff after having asserted her rights by complaining to the District Attorney, the Plaintiff suffered the deprivation of her rights and was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT V
VIOLATION OF 42 U.S.C. §1983 - DENIAL OF DUE PROCESS/DEPRIVED OF
PROPERTY INTEREST IN PUBLIC EMPLOYMENT PRIOR TO AUGUST 14, 2002
TERMINATION

47. The Plaintiff hereby repeats and realleges the allegations contained in paragraphs 1 through 41 of this complaint and incorporates the same herein by reference;

48. As a result of the Defendants' actions under color of law, the Plaintiff's due process rights were interfered with, attempted to be interfered with, and that interference or attempted interference was by threats, intimidation or coercion and the Plaintiff was deprived of a property interest in public employment with the termination of said public employment on August 14, 2002;

49. As a result of these intentional, wilful, knowing, malicious and purposeful violations of the Plaintiff civil rights under 42 U.S.C. §1983, the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT VI
VIOLATION OF 42 U.S.C. §1983 - DENIAL OF DUE PROCESS/DEPRIVED OF
PROPERTY INTEREST IN PUBLIC EMPLOYMENT PRIOR TO MAY 26, 2003
TERMINATION

50. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 49 of this complaint and incorporates the same herein by reference;

51. As a result of the Defendants' actions under color of law, the Plaintiff's due process rights were interfered with, attempted to be interfered with, and that interference or attempted interference was by threats, intimidation or coercion and the Plaintiff was deprived of a property

interest in public employment with the constructive termination of said public employment on May 26, 2003;

52. As a result of these intentional, wilful, knowing, malicious and purposeful violations the Plaintiff civil rights under 42 U.S.C. §1983 the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT VII
CIVIL CONSPIRACY

53. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 52 of this complaint and incorporates the same herein by reference;

54. As a result of the Defendants' actions in conspiracy, under color of law and otherwise, the Plaintiff's due process rights were interfered with, attempted to be interfered with, and that interference or attempted interference was by threats, intimidation or coercion and the Plaintiff was deprived of a property interest in public employment with the termination of her public employment;

55. As a result of this intentional, wilful, knowing, malicious and purposeful conspiracy the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT VIII
DEFAMATION

56. The Plaintiff hereby repeats and realleges the allegations contained in paragraph 1 through paragraph 55 of this complaint and incorporates the same herein by reference;

57. As a result of the Defendants' defamatory words and statements the Plaintiff was deprived of a property interest in public employment with the termination of her public employment;

58. As a result of these intentional, wilful, knowing, malicious and purposeful action the Plaintiff suffered the a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT IX
VIOLATION OF M.G.L.c. 149, § 19
(ILLEGAL INTERFERENCE WITH EMPLOYMENT RELATIONSHIP)

59. The Plaintiff hereby repeats and realleges the allegations contained in paragraph 1 through paragraph 58 of this complaint and incorporates the same herein by reference;

60. As a result of the Defendants' actions to prevent the Plaintiff from entering into or continuing in her employment, the Plaintiff's continued employment was interfered with, attempted to be interfered with, and terminated, and that interference, attempted interference and termination was by threats, intimidation or coercion;

61. As a result of these intentional, wilful, knowing, malicious and purposeful actions the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT X
VIOLATION OF M.G.L.c. 149, § 185
(WHISTLE BLOWING)

62. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 61 of this complaint and incorporates the same herein by reference;

63. As a result of the Defendants' actions to prevent the Plaintiff from disclosing to a supervisor or to a public body an activity, policy or practice that the Plaintiff reasonably believed was in violation of a law, or a rule or regulation promulgated pursuant to law, or which the Plaintiff reasonably believed posed a risk to public health, safety or the environment, the Plaintiff's continued employment was interfered with, attempted to be interfered with, and terminated, and that interference, attempted interference and termination was by threats, intimidation or coercion;

64. As a result of the Defendants' actions to prevent the Plaintiff from objecting to, or refusing to participate in an activity, policy or practice which the Plaintiff reasonably believed was in violation of a law, or a rule or regulation promulgated pursuant to law, or which the Plaintiff reasonably believed posed a risk to public health, safety or the environment, the Plaintiff's continued employment was interfered with, attempted to be interfered with, and terminated, and that interference, attempted interference and termination was by threats, intimidation or coercion;

65. As a result of these intentional, wilful, knowing, malicious and retaliatory actions the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT XI
TORTIOUS INTERFERENCE WITH CONTRACTUAL OR ADVANTAGEOUS
RELATIONS

66. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 65 of this complaint and incorporates the same herein by reference;

67. As a result of the Defendants' actions to prevent the Plaintiff from disclosing to a supervisor or to a public body an activity, policy or practice that the Plaintiff reasonably believed was in violation of a law, or a rule or regulation promulgated pursuant to law, or which the Plaintiff reasonably believed posed a risk to public health, safety or the environment, the Plaintiff's continued employment was tortiously interfered with, attempted to be interfered with, and terminated;

68. As a result of the Defendants' actions to prevent the Plaintiff from providing information to a public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law, or activity, policy or practice which the Plaintiff reasonably believed poses a risk to public health, safety or the environment by the employer, the Plaintiff's continued employment was interfered with, attempted to be interfered with, and terminated, and the Plaintiff's continued employment was tortiously interfered with, attempted to be interfered with, and terminated.

69. As a result of the Defendants' actions to prevent the Plaintiff from objecting to, or refusing to participate in an activity, policy or practice which the Plaintiff reasonably believed was in violation of a law, or a rule or regulation promulgated pursuant to law, or which the Plaintiff reasonably believed posed a risk to public health, safety or the environment, the Plaintiff's

continued employment was interfered with, attempted to be interfered with, and terminated, and the Plaintiff's continued employment was tortiously interfered with, attempted to be interfered with, and terminated.

70. As a result of these intentional, wilful, knowing, malicious and tortious actions the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT XII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

71. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 72 of this complaint and incorporates the same herein by reference;

72. As a result of the Defendant's extreme and outrageous actions as detailed above, the Defendants intentionally inflicted severe emotional distress on the Plaintiff;

73. As a result the Plaintiff was forced to suffer emotional distress, great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT XIII
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

74. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 73 of this complaint and incorporates the same herein by reference;

75. As a result of the Defendant's actions, the Defendants negligently inflicted severe emotional distress on the Plaintiff;

76. As a result the Plaintiff was forced to suffer emotional distress, great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

COUNT XIV
VIOLATION OF M.G.L. c. 12 §11 H and §11 I - CIVIL RIGHTS VIOLATIONS
FREEDOM OF SPEECH

77. The Plaintiff hereby repeats and reallege the allegations contained in paragraph 1 through paragraph 76 of this complaint and incorporates the same herein by reference;

78. As a result of the Defendants' actions, the Plaintiff's rights to free expression were interfered with, attempted to be interfered with, and that interference or attempted interference was by threats, intimidation or coercion and the Plaintiff was deprived of her rights to free exercise of speech and her property interest in public employment;

79. As a result of these intentional, wilful, knowing, malicious and purposeful violations the Plaintiff civil rights under M.G.L. c. 12 §11 H and §11 I, the Plaintiff suffered the deprivation of her rights and a loss of public employment, wages and benefits, was forced to suffer great strain, hardship, and anxiety, was caused painful physical and mental suffering, was subjected to humiliation, and was caused to seek medical attention.

WHEREFORE, the Plaintiff demands judgment against all the Defendants as follows:

On Count I:

(a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;

- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action,
including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count II:

- (a) That Plaintiff be awarded compensatory damages, including damages for
emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action,
including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count III:

- (a) That Plaintiff be awarded compensatory damages, including damages for
emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action,
including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count IV:

- (a) That Plaintiff be awarded compensatory damages, including damages for
emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;

(c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;

(d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count V:

(a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;

(b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;

(c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;

(d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count VI:

(a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;

(b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;

(c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;

(d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count VII:

(a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;

(b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;

(c) That the Plaintiff be awarded reasonable costs and expenses of this action,

including prejudgment interest;

- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count VIII:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count IX:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count X:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;

- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count XI:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count XII:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count XIII:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

On Count XIV:

- (a) That Plaintiff be awarded compensatory damages, including damages for emotional distress, in an amount to be determined at trial;
- (b) That Plaintiff be awarded punitive damages in an amount to be determined at trial;
- (c) That the Plaintiff be awarded reasonable costs and expenses of this action, including prejudgment interest;
- (d) That the Plaintiff be awarded a reasonable allowance for attorney's fees.

PLAINTIFF DEMANDS STATUTORY PENALTIES ON ALL APPLICABLE COUNTS

PLAINTIFF DEMANDS STATUTORY INTEREST ON ALL APPLICABLE COUNTS

PLAINTIFF DEMANDS JURY TRIAL ON ALL COUNTS ALLOWABLE

VERIFICATION

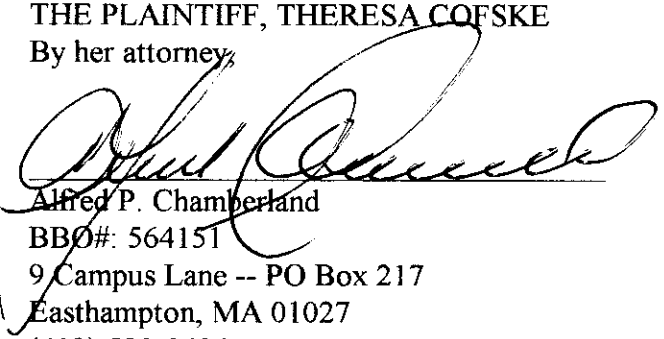
I, Theresa Cofske, do hereby declare that I have read the foregoing Complaint and know the contents thereof. The contents are true to my knowledge except to those matters that are alleged on information and belief; as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 28th day of July, 2005, 2004 in Hampshire County, Massachusetts.


THERESA COFSKE

Respectfully submitted,
THE PLAINTIFF, THERESA COFSKE
By her attorney,

Dated: 8/1/2005


Alfred P. Chamberland

BBO#: 564151

9 Campus Lane -- PO Box 217

Easthampton, MA 01027

(413) 529-0404

JS 44
(Rev. 3/99)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**THERESA COFSKE****(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF**
(EXCEPT IN U.S. PLAINTIFF CASES)**DEFENDANTS****TOWN OF WARE CONSERVATION
COMMISSION, JOEL HARDER,
TRAVIS NICOSON, ROGER BOUCHARD,
JOHN MOTYKA**

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**ALFRED P. CHAMBERLAND
9 CAMPUS LANE, P.O. BOX 217
EAST HAMPTON, MA 01927 (413) 529-0404**

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury -- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS -- Third Party 26 USC 7609

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

42 U.S.C. §1983: PLAINTIFF WAS HARASSED, RETALIATED AGAINST + WRONGFULLY TERMINATED FROM HER EMPLOYMENT WITH DEFENDANT.**VII. REQUESTED IN COMPLAINT:**CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in compl. int.

JURY DEMAND: ☒ YES ☐ NO**VIII. RELATED CASE(S) (See instructions): IF ANY**

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

8-2-2005**Alfred P. Chamberland (RD)**

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) COFSKE V. TOWN OF WARE
CONSERVATION COMMISSION, HARDER, NICOLSON, BOUCHARD, MOTYKA

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

✓ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.

*Also complete AO 120 or AO 121 for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

N/A

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐

NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐

NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐

NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐

NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☐

NO ☒

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☐

CENTRAL DIVISION ☐

WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☐

CENTRAL DIVISION ☐

WESTERN DIVISION ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME ALFRED P. CHAMBERLAND

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01/27